

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

GUSTAVO BERMUDEZ,
PLAINTIFF

v.

Docket No. 07-CIV.-9537

CITY OF NEW YORK POLICE
DEPARTMENT AND THE UNITED
STATES DRUG ENFORCEMENT
ADMINISTRATION,
DEFENDANTS

DECLARATION OF JOHN HIERONYMUS

1. I, John Hieronymus, hereby declare that I am the Forfeiture Counsel of the Drug Enforcement Administration (DEA), United States Department of Justice, and in that capacity supervise forfeiture activities within the DEA.

2. I affirm that, in the course of my official duties as Forfeiture Counsel of the DEA, I supervise and monitor the forfeiture activities of DEA field offices and receive reports and inquiries from those field offices regarding all facets of forfeiture matters.

3. I declare that material related to the property, which is the subject matter in the above-captioned action, is contained in one file of my office.

4. The file, captioned as DEA Case No. **C1-06-0121** and Asset Identification No. **06-DEA-471937**, contains the following information:

(a) DEA Asset ID Number **06-DEA-471937** represents \$122,985.00 U.S. Currency seized from Gustavo Bermudez in New York, New York, by DEA Special Agents on July 18, 2006. The DEA office in New York, NY subsequently prepared and submitted a forfeiture report to this office. An attorney or paralegal reviewed this report to determine if the DEA field office provided adequate information to support administrative forfeiture proceedings against the property. This procedure included a legal review of the evidence that existed to seize the \$122,985.00 U.S. Currency. Based on this thorough review, the DEA accepted this case for administrative forfeiture.

(b) On September 6, 2006, pursuant to Title 19, U.S.C., Section 1607(a), and Title 18, U.S.C., Section 983, the DEA sent written notice of this seizure by certified mail, return receipt requested, to Gustavo Bermudez, 11 Market St., Fitchburg, MA 01420-8117 (Exhibit 1). The notice was returned to the DEA stamped "RETURN TO SENDER, NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD" (Exhibit 2).

(c) On October 24, 2006, DEA Headquarters requested that the DEA New York Field Division verify the address of Gustavo Bermudez. The DEA New York Field Division researched the address on two national databases (ATXPChoicePoint and Lexis,

Nexis), confirming the 11 Market Street, Fitchburg, MA 01420-8117 address. ATXPChoicePoint and Lexis,Nexis listed the following for Gustavo Bermudez's current home address; A3 Calle 1, Bayamon, Puerto Rico 00957-4380.

(d) On October 9, 2006, pursuant to Title 19, U.S.C., Section 1607(a), and Title 21, Code of Federal Regulations (C.F.R.), Section 1316.75, the seizure of the property was published in THE WALL STREET JOURNAL, a newspaper of general circulation in the Southern District of New York (Exhibit 3). The notice was published once each week, for three successive weeks: October 9, October 16 and October 23, 2006. The published and mailed notices explained the option of filing a claim with the DEA Forfeiture Counsel in order to contest a forfeiture action in United States District Court. Pursuant to Title 18, U.S.C., Section 983(a), the published and mailed notices also stated that the deadline to file a claim was October 11, 2006 or, if the mailed notice was not received, November 23, 2006. In addition, the published and mailed notices explained the option of filing a petition for remission or mitigation.

(e) On November 8, 2006, pursuant to Title 19, U.S.C., Section 1607(a), and Title 18, U.S.C., Section 983, the DEA sent written notice of this seizure by certified mail, return receipt requested, to Gustavo Bermudez, A3 Calle 1, Bayamon, PR 00957-4380 (Exhibit 4). The notice was returned to the DEA stamped "RETURN TO SENDER, INSUFFICIENT ADDRESS" (Exhibit 5).

(f) On December 6, 2006, DEA Headquarters requested that the DEA New York Field Division verify the address A3 Calle 1, Bayamon, PR 00957-4380 of Gustavo Bermudez and to provide any available forwarding information for the address. The DEA New York Field Division researched the address on two national databases (ATXPChoicePoint and Lexis,Nexis), and verified that this was the most current home address for Gustavo Bermudez.

(g) On January 10, 2007, after there had not been any properly executed claim received, and after the time limit for filing said claim expired, the DEA forfeited the \$122,985.00 U.S. Currency to the United States pursuant to Title 19, U.S.C., Section 1609 (Exhibit 6).

(h) On May 4, 2007, the DEA received correspondence from Philip Russell, Attorney at Law, demanding the return of \$122,565.00 U.S. Currency (Exhibit 7).

(i) On May 22, 2007, the DEA advised Mr. Russell that his client's time period to file a claim had expired, that the property was forfeited and the time for a Petition for Remission and/or Mitigation had also expired. A letter, sent by certified mail, return receipt requested, was mailed to Philip Russell, Esq., 66 Field Point Road, Greenwich, CT (Exhibit 8). On May 29, 2007, an individual signing in the "Signature" block accepted delivery of this letter (Exhibit 9).

(j) On June 20, 2007, the DEA received a facsimile copy of correspondence, dated June 20, 2007, from Lane Marmon,


Paralegal for Philip Russell, L.L.C., Attorneys at Law,
requesting a copy of the DEA Case file (Exhibit 10).

(k) On June 26, 2007, this request was forwarded to
Katherine L. Myrick, Chief, Operations Unit, Freedom of
Information/Records Management Section for processing (Exhibit
11).

(l) On October 29, 2007, the DEA received
correspondence from Shirley Reinoso, Legal Assistant for Philip
Russell, L.L.C., Attorneys at Law, containing a courtesy copy of
a Summons and Complaint (Exhibit 12).

I declare under penalty of perjury that the foregoing
is true and correct to the best of my knowledge and belief.

Executed this 7th day of November 2007.



John Hieronymus
Forfeiture Counsel
Asset Forfeiture Section
CCF, Drug Enforcement Administration
HQs Forfeiture Response
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